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PHOTO IS DISPUTED IN KENNEDY DEATH

Magazine Publishes It With 'Second-Assassin Theory'

By PETER KIHSS

A controversy over whether a photograph showed a man aiming a rifle in front of President Kennedy the day he was killed in Dallas was stirred up yesterday by Esquire magazine.

The magazine's report brought quick dissent from United Press International, from whose files the picture came. The news service quoted Jack V. Fox, a staff correspondent, as having said that "if the picture is studied long enough one can believe that he sees" a rifleman with sunglasses leaning on top of a station wagon—"but one can also imagine a white - faced steer staring down."

The news agency added that Mr. Fox, after an investigation of various challenges of the Warren Commission report and talking with eyewitnesses, reported on June 27 that "he personally was satisfied" with the commission's findings. The commission, headed by Chief Justice Earl Warren, held that Lee Harvey Oswald was the lone assassin of the President on Nov. 22, 1963, firing from the sixth floor of a building behind the Kennedy car.

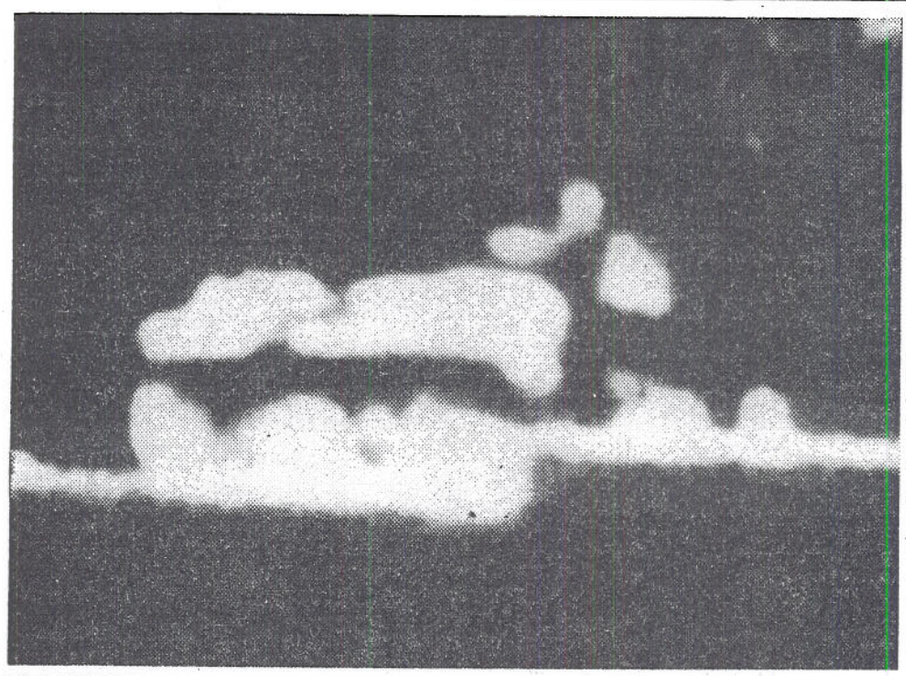
In a press release concerning its December issue, out today, Esquire said the picture "appears to confirm the existence of an assassin now at large."

But late yesterday, John Berendt, an associate editor, said the press release was "perhaps a bit too positive." The magazine, he said, was standing instead on the text of an "impartial" article that offered the photograph in the eighth of 35 detailed "assassination theories."

U. S. Aide Took Picture

The controversy arose over one frame of an eight-millimeter color film by Orville O. Nix, a Dallas employe of the Federal General Services Administration. This showed a fence along a grassy knoll and, when enlarged, behind it what the article said was "in fact a vehicle" with a man leaning on its roof.

The Esquire article said S. M. Holland, a railroad signal supervisor, had told Mr. Fox he had heard a shot from behind the fence as well as three shots from the Texas Book Depository, where Oswald was employed. Mr. Holland said he had found a station wagon behind the fence, with two muddy marks on its bumper as if someone had stood on it



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CONTROVERSIAL ASSASSINATION PICTURE: Top picture, from files of United Press International, is said by Esquire article to show (upper left corner) a vehicle with a man on its roof at moment President Kennedy, in car in foreground, is being shot. Bottom picture is blowup of section in question. U.P.I. disagrees that picture—a frame from a film—shows a "rifleman." Esquire used picture with 35 "assassination theories."

United Press International, in a statement, said the Esquire article "states erroneously that three U.P.I. editors are proponents of a theory that the picture indicated a second slayer." Mr. Berendt said the word "proponents" was meant to refer to persons who worked on "tracking down" a theory, even if "right now they may feel differently."

Meanwhile, WNBC-TV made available a text of a 55-minute "Open Mind" panel program taped late last month and scheduled for broadcast at noon next Sunday, after having been displaced by a news program last Sunday.

Back Up Report

On this, two assistant counsels for the Warren commission reported they stood by its findings after having examined challenges in books by two other panelists, Mark Lane and Edward Jay Epstein, authors respectively of "Rush to Judgment" and "Inquest."

One of the Commission aides was Burt W. Griffin, now director of the Legal Aid Society of Cleveland, who said the two authors had pointed out "loose ends, which I don't think are central or germane." The other was Wesley J. Liebeler, now professor of law at the University of California in Los Angeles who said the Warren inquiry had been "thorough" and sometimes the report "didn't reflect" all the evidence in the record.